STAFFORD COUNTY PLANNING COMMISSION MINUTES
May 16, 2012

The meeting of the Stafford County Planning Commission of Tuesday, May 16, 2012, was called to order at 6:32 p.m. by Chairman Michael Rhodes in the Board of Supervisors Chambers of the County Administrative Center.

MEMBERS PRESENT: Rhodes, Hirons, Apicella, Boswell, Hazard, Gibbons, and Schwartz

MEMBERS ABSENT: None

STAFF PRESENT: Harvey, McClendon, Ansong, Blackburn, Hornung, Knighting and Zuraf

Mrs. Hazard stated that all members were present.

DECLARATIONS OF DISQUALIFICATION

Mr. Rhodes asked if there were any Declarations of Disqualification. Hearing none he moved on to item 1.

UNFINISHED BUSINESS

1. Amendment to Zoning Ordinance - Proposed Ordinance O12-02 would amend the Stafford County Code by, among other things, creating new definitions, modifying permitted uses and creating new zoning regulations to establish a Transfer of Development Rights (TDR) program. The purpose of the TDR program is to provide a mechanism by which a property owner can voluntarily transfer residential density from sending areas to receiving areas and/or to a transferee without relation to any particular property through a process intended to permanently conserve agricultural and forestry uses of lands, reduce development densities on those and other lands, and preserve rural open spaces and natural and scenic resources. The TDR program is intended to complement and supplement County land use regulations, resource protection efforts, and open space acquisition programs. The TDR program is also intended to encourage increased densities in two designated receiving areas that can better accommodate this growth. **(Time Limit: June 2012) (History - Deferred at March 7, 2012 to March 21, 2012) (Deferred at March 21, 2012 to April 3, 2012) (Deferred at April 3, 2012 to April 18, 2012) (Deferred at April 18, 2012 to May 2, 2012) (Deferred at May 2, 2012 to May 16, 2012)**
   (Authorize for Public Hearing by: May 16, 2012)
   (Potential Public Hearing Date: June 20, 2012)

2. Amendment to the Stafford County Comprehensive Plan ("Plan") - A proposal to amend the Plan dated June 7, 2011 in accordance with Virginia Code Section 15.2-2229 regarding Transfer of Development Rights (TDR). The proposed amendment would modify Chapter 3 of the Plan to incorporate amendments to the textual document and adopt a new map entitled Figure 3.8, Transfer of Development Rights Sending and Receiving Areas. The map generally depicts the area south of Aquia Creek, east of the CSX Rail Line and north of Potomac Creek that are designated as Agricultural/Rural and Park on the Plan Land Use Map as a sending area for Transfer of Development Rights and the lands designated as the Brooke Station Urban Development Area and Courthouse Urban Development Area as receiving areas for Transfer of

Development Rights. **(Time Limit: June 2012) (History - Deferred at March 7, 2012 to March 21, 2012) (Deferred at March 21, 2012 to April 3, 2012) (Deferred at April 3, 2012 to April 18, 2012) (Deferred at April 18, 2012 to May 2, 2012) (Deferred at May 2, 2012 to May 16, 2012)**
(Authorize for Public Hearing by: May 16, 2012)
(Potential Public Hearing Date: June 20, 2012)

Mr. Rhodes stated there had been a mixing of dialogues in the Crow's Nest area. There had been some legal proceedings several years ago, which have had Court rulings and had sometimes been intertwined with this Zoning Ordinance and this legislation. He asked Ms. McClendon if there was anything about this TDR Ordinance in any way that had any effect on negating, modifying, or altering any previous Court decisions with the Crow's Nest property. Ms. McClendon stated that was correct. Mr. Rhodes repeated it was a complete separation of the two. Ms. McClendon agreed again. Mr. Rhodes stated he just wanted to confirm that point and stated the Commission would proceed with the next item.

Amy Ansong gave a brief presentation. She stated staff had provided a memo based on the recommendations which were brought forward by the Commission at the April 18th meeting. She reviewed the information in the memo and stated that staff recommended that the Planning Commission consider authorizing a public hearing for Ordinance O12-02 and the related Comprehensive Plan amendments for the June 20, 2012, meeting.

Mr. Gibbons questioned the reference on the agenda in item 2 regarding the Brooke Station Urban Development Area. Mr. Rhodes stated that that portion on the agenda would be removed.

Mrs. Hazard reviewed the calculation of 491 units from the sending area, based on how many rights could be possible, but it did not take into account some of the qualifiers that were in the Ordinance, such as things that would have to be examined by the Planning Director as he was assessing an application. Ms. Ansong stated that was correct; things like slopes, hydric soils, and road frontage. Mrs. Hazard stated in a perfect world this was the number of rights that were possible, but it did not mean that was how many there would be when the program was implemented. Ms. Ansong agreed. Mrs. Hazard stated the comment on the second page of the memo given to the Commission stated "furthermore 491 units in the Courthouse UDA should be made possible" and she stated she felt it should say could or might be made possible because you would not know if there was going to be 491 units. Ms. Ansong stated she would change the language a little bit in that section. After a brief discussion between the Commission members, it was decided the wording should be "up to 491 in the Courthouse UDAs could be made possible by the Transfer of Development Rights from properties outside the UDAs".

Mr. Apicella stated he thought at the last two meetings the Commission talked about incorporating the parkland provisions that were provided by the State. He did not see that as an authorized continuing use on land that had property rights severed and asked that it be added to Section 22-360 (d). He read what the actual legislation provided for in addition to agricultural products or forestal products it says "and to include parks, campgrounds, and related camping facilities, however, for the purposes of this subdivision campgrounds does not include use by travel trailers, motor homes, and similar vehicular type structures" and recommended that language for the proposed Ordinance. After a brief discussion between the Commission and Mr. Taves concerning the location of the proposed language in the Ordinance, it was decided that the Planning Commission would give direction to insert the language and present it to the Commission. Mr. Rhodes stated it would have to be voted on tonight to send to public hearing, and suggested the Commission come back to it after the language was inserted. Mr. Gibbons asked if something was not effective, how it could be put in an Ordinance for public hearing.

Mr. Rhodes stated what he heard from Ms. McClendon was she did not recommend the Commission do that typically but in this instance the public hearing would be on the 20th and it would not go before the Board until after the first of July, at such time it would be enforced. Mrs. Hazard stated through the legislation where it talked about severing a portion of the rights, in states each transfer will have the right to sever all or a portion of the development rights from a sending property. She stated she wanted clarification. If they were only doing a portion, would the plat have to be included to say what portion they were severing? Mr. Taves stated that was accurate. Mr. Gibbons asked Mr. Harvey, since he was the appointed designee he would decide if the application was correct or not. Mr. Harvey stated yes. Mr. Gibbons stated then that action goes into what is called a bank and there was no sunset clause in the Ordinance, so an applicant could wait forever to put it in a receiving area. Mr. Rhodes stated the right will exist in perpetuity. Mr. Taves stated that was correct and stated he sent a memo to the Commission earlier concerning needing to protect rights that have been severed and not attached to another property. He stated it would be a vested right and under the Statute you could not do away with all TDRs, just those that had not been severed. Mr. Gibbons stated he was trying to understand the flow. When the applicant severs the right, there was a certificate and then it would go into a bank and it could sit there. He asked if it would get taxes as where it came from or what the receiving area was taxed? Mr. Harvey stated once the property was severed they could hold onto it or transfer those development rights to someone else before they actually land on a specific property for a development project. He stated once the development right was severed, you would have two pieces of property that get taxed. One was the development right and the other was the underlying use of the property. They would be taxed as two separate entities and it could be two separate owners, because once you sever a development right it could be sold. Every time that development right was transferred, a new certificate was issued and recorded in the Clerk of the Courts office. So that was how the Commissioner of Revenues office would track the ownership and assess the taxes. Mr. Gibbons asked how the tax was assessed, was it from where it came from or where it was supposed to go in the receiving area? Mr. Harvey stated the Commissioner of the Revenue stated the tax on the development rights that were floating would be based on the value of the development right. He explained the value would not be known completely until they started being bought and sold, but for the first one they would probably defer to the Purchase of Development Rights Program as an option for valuation. Once they start selling, Mr. Mayausky could see what the market would be and get a better idea of the assessed value of the development right. Mr. Gibbons stated the Commissioner of Revenue had a right to place it in the 25 year program, if the applicant wished. Mr. Rhodes asked if that was tax abatement. Mr. Gibbons stated yes, the abatement program. Mr. Apicella stated the Commission talked about it several times. The abatement was equal to the amount of tax they would have paid over the 25 year period. He stated it was not that you were buying the property at fair market value, you were taking the taxes that would have been paid. Mr. Gibbons stated at the end of the 25th year if they don't put it in some receiving area then it reverts back to the County. Mr. Apicella agreed. Mr. Gibbons asked if the abatement was pro-rated. Mr. Apicella stated that was something the Commissioner of Revenue would have to design once this was approved. But as currently written it could be over 25 years. Mr. Gibbons stated he thought when you adopt something you should have all the ground rules in the adoption. Mr. Apicella stated it was a tax issue, it is not within the Planning Commission's purview. It was something the Commissioner of Revenue would have to adopt some rules and procedures for. Mr. Gibbons stated the Board of Supervisors sets the tax rate and the Commissioner of Revenue would send out the bills according to what was adopted. Mr. Apicella stated he did not think it was for the Planning Commission to design. He stated the State Code authorized a tax abatement program and the Commission decided to include the tax abatement program as an alternative means of saving property. Mr. Taves stated currently there was a provision in the draft ordinance which was very similar to the language in the State Code. He stated the Commissioner of Revenue would implement the provisions of the ordinance over the course of time and apply those provisions to particular pieces of property. He stated the State Code and the proposed Ordinance both provided for retirement of development

rights through a tax abatement program. Mr. Gibbons stated in his opinion the Ordinance had too many ifs in it and it does not have a sunset clause. Mr. Taves stated in regard to the tax abatement clause it was under one of the "may" paragraphs so the Commission did not have to recommend it and the Board did not have to adopt such a program. It was totally optional. Mr. Apicella stated it was discussed twice in the November or December timeframe. Mr. Gibbons stated he was not on the Commission at that time and apologized for not having the background. Mr. Rhodes stated Mr. Gibbons did bring up a good point and the positive was this was capped up to 491 units and no more. He stated some processes would be developed in the implementation. Mr. Apicella stated he was glad Mr. Gibbons brought up the issue about sunsetting, but more broadly the Commission talked about having a sunset approach as part of the pilot program and had asked staff to come back with a recommendation how to do that, as part of this Ordinance or a separate Ordinance to give this a certain lifespan. He stated a sunset provision may encourage people to participate. He asked staff the best way to achieve a sunset, his recommendation would be five years, but he was open to something else if that was the will of the Commission. Ms. McClendon stated she looked into that provision as well as Mr. Taves' office. The recommendation was to do it through a separate Ordinance. Mr. Rhodes stated so a separate Ordinance to put a limitation to the ability to apply for Transfer of Development Rights. Ms. McClendon stated a separate Ordinance to repeal the current Ordinance. Mr. Rhodes stated you would leave this without any limitation and at such time the County would determine they would want to stop accepting new TDR applications, it would take another Ordinance to reverse this Ordinance. Mr. Taves stated it could not be done that way because that would leave it up to the Board to make a decision at any point in time. The reason you would need a separate Ordinance would be because you can't have two effective dates for the same Ordinance. So after you adopt the first Ordinance you could adopt a second Ordinance saying that once you reach this point then TDRs would go away, except those development rights that have been severed but not yet attached. Mr. Rhodes stated a separate Ordinance to apply a time base. Mr. Taves stated it could be done by time or a particular date or a certain number of development rights. Mr. Gibbons asked if there was anything in the Ordinance that when an applicant applied to transfer that, a time limit could be put on the placement of those rights. Mr. Taves stated he did not think that could be done because you have to protect the vested rights of those property owners. When the property owner has severed the rights from the sending property, those were valuable rights and there were not provisions for amortization or doing away with those rights. Mr. Gibbons asked about downzoning. Mr. Taves stated under the Zoning Ordinance the Board of Supervisors could enact a downzoning if certain requirements were satisfied. The difference was in a zoning situation those rights have not been realized. Mrs. Hazard asked Mr. Harvey to explain, on page 20 Section 28-359, in subpart 3 at the bottom where it talked about subtracting out 5 percent if the property did not abut any public road. Mr. Harvey stated this was contemplated for properties that did not have public street frontage. Normally with development properties would have public street frontage and were required to dedicate land for that public street. So therefore they would have less acreage that could be used for development. So this was an attempt to equalize properties that did not have road frontage versus properties that did. If you did not have this caveat, properties that did not have road frontage potentially would have more developable acreage. Mrs. Hazard asked if it was set up as a subdivision with road, was there any reason that it would just be for public roads, would it be for any road. Mr. Harvey stated just a public road where there was dedicated right-of-way to the County. Typically private roads existed as easements and were in many cases on the lot that they served. Mrs. Hazard stated on page 24 of the same packet where it talked about what the chain of title needed to include. She asked if there was any reason any HOA documents associated with the property in case there were any restrictions. Mr. Gibbons stated on page 18 it stated you cannot transfer from a sending property the rights and restrictions. Would that cover that? Mrs. Hazard stated she was talking about what the person had to submit to Mr. Harvey's office. She asked in case there was an HOA would that be covered by covenants. Ms. McClendon stated based on the itemized list HOA documents would be included in the covenants but even outside of that the list was not all

inclusive. But generally when they would sign the application they were saying that anything that materially restricts the title was included. Mr. Gibbons asked about page 18 under D, it said no development rights may be transferred from the sending property if those rights were materially restricted from development by covenant, easement, and/or deed restriction. Mr. Rhodes stated that was where the comment was the maximum was 491, so some may be impacted by things like this. Mr. Gibbons stated all of them had a deed restriction; that was why he asked for an interpretation of the court order. Mrs. Hazard stated not with small units, but with larger units there may be possibilities. Mr. Rhodes stated Mr. Taves had the language associated with page 22, so this would be language that would replace subparagraph D on page 22? Mr. Taves stated yes. He read "the severance of development rights from a sending property shall not deprive the owner of such sending property of the right to use that portion of the sending property from which development rights have been transferred for any 1) agricultural uses, 2) forestal uses with reforestation plans and 3) parks, campgrounds and related camping facilities, if any such use was permitted by-right on the sending property prior to the transfer of such development rights. Any new buildings to be constructed on such property shall be limited to no more than 6,000 square feet size and shall be in support of such agricultural, forestal, park, campgrounds and related camping facility uses. For purposes of this section the term campgrounds does not include any use by travel trailers, motor homes and similar vehicular type structures." Mr. Gibbons stated when he read it, the 6,000 square feet was still in there. When you talk about park or campground, you might have a park store or park headquarters that might be more than 6,000 square feet. Dr. Schwartz asked if the 6,000 was cumulative square footage for multiple buildings or one single building. Mr. Gibbons stated new buildings. Mr. Taves stated the 6,000 square feet language did not come out of the State Code; it came from Stafford County in terms of wanting to allow those types of uses to have some structures but not too many or too much square footage. Dr. Schwartz asked if the word cumulative could be added, cumulative square footage of all buildings. Mr. Taves stated that would make it clear. Mr. Apicella stated he thought the original intent was for agricultural uses like barns. He stated he did not have a problem if the building was restricted to what it was originally intended for which was agricultural and forestal uses. Mr. Apicella stated any new building constructed on such property shall be limited to no more than 6,000 square feet in size and shall be in support of such agricultural and forestal uses. Same as we had before. Mr. Gibbons asked about parks. Mr. Apicella stated we don't have to have a building for a park on a parcel that has severed development rights. It was the will of the Commission. But the point was you have a farmer who was severing his development rights, he wanted to build a barn to continue farming but we would not allow it without this provision. Mr. Taves asked if no structures would be allowed on campgrounds or park uses where people may check in when they come to visit or restrooms. Mr. Apicella stated he did not think 6,000 square feet would be necessary. Mr. Taves stated a different size could be written in. Mr. Rhodes suggested "no more than 6,000 square feet in size and shall be in support of agriculture or forestal uses and no more than blank in support of park, campgrounds and related facilities." He asked if anyone had a number. Mr. Gibbons suggested 10,000 square feet. Mr. Taves stated he thought Mr. Apicella was suggesting less square footage. Mr. Apicella stated he understood providing public facilities but he did not think the goal was to provide a large structure for a park. He stated it was the will of the Commission as to what was thought to be appropriate. He stated 6,000 square feet was the size of two large houses and suggested 2,000 square feet with respect to parkland. Mr. Rhodes asked if there were other comments on what Mr. Taves read. He stated it needed a quick modification and would be read in a moment. He stated to recap the other edit was dealing with a portion of the comp plan insert, attachment 1, page 1 of 4, which was actually page 3-17 of the Comprehensive Plan, the land use plan, where it said "furthermore up to 491 units in Courthouse UDA could be made possible." Mr. Gibbons reminded Mr. Rhodes of the sunset ordinance to be recommended to the Board. Mr. Taves stated he may have misspoke earlier in reference to the sunset provision. He stated instead of tying the sunset provision to the number of units, you could limit the number of units to be sent. He stated in regard to the effective dates, a better way to do the sunset

provision would be to pick a date out in the future and no additional units could be severed after that date but provide for vested rights that have already been severed.

A brief discussion ensued between Dr. Schwartz and Mr. Taves concerning either number of units or effective date, whichever would come first. Mr. Taves stated he would recommend limiting the size of the sending area so that by using the development rights that could be transferred you have reached the end of the useful term of the Ordinance. Dr. Schwartz stated the reason for a sunset clause was if the pilot program was not working. Mr. Taves stated it could be ended much earlier if it was not working, but you would still have people that have severed development rights and you would have to protect those vested rights. Mr. Taves stated repealing an Ordinance was much easier than drafting an Ordinance, so it probably would not take as long. Mr. Gibbons stated there were three parts, one was you send the Ordinance forward. The second part was the sunset and the third thing he would like to recommend to the Board was to hold off on the abatement program until after the pilot was complete. Mr. Apicella stated this was a pilot program and it was a small number that was being dealt with and this may be a good opportunity using that small number to test the abatement program.

Mr. Taves stated with regard to the language that he was drafting, was it the pleasure of the Commission to have a separate and different limitation on the size of buildings for parks, campgrounds, and related camping facility uses? Mr. Rhodes stated yes. Mr. Taves stated he had prepared language that fits for that provision. He stated it would be a new second sentence and would read as follows: "Any new buildings to be constructed on such property shall be limited to a cumulative size of no more than 6,000 square feet in size and shall be in support of such agricultural and forestal uses and shall be limited to a cumulative size of 2,000 square feet if in support of park, campgrounds, and related camping facility uses." Mr. Rhodes stated and then a final sentence that said "For the purposes of this section?" Mr. Taves stated exactly and it would be the same as was read earlier. Mr. Rhodes asked if there were any concerns with that modification as read.

Mr. Apicella made a motion to authorize for public hearing Ordinance O12-02 and the related Comprehensive Plan Amendments for the June 20, 2012, meeting with the modifications that were discussed. Mr. Gibbons seconded the motion.

Mr. Hirons stated because it was 7:30 he felt the Commission was rushing the motion. He stated he agreed and supported it, but he moved the Commission table the issue until after the public hearing or the end of the agenda. Mr. Rhodes asked Ms. McClendon if that was allowed because the motion was made. Ms. McClendon stated yes, you could defer for a time certain.

Mr. Rhodes stated he was fine with that to allow for further discussion on the motion. He stated because of the time, the Commission would continue discussion on these items after the public presentations and the public hearing.

3. Proffer Guidelines - Review and discuss new methodology and policies. (**Time Limit: September 30, 2012) (History - Deferred at April 3, 2012 to April 18, 2012) (Deferred at April 18, 2012 to May 2, 2012) (Deferred at May 2, 2012 to May 16, 2012) (Deferred at May 2, 2012 to May 16, 2012)**
(Authorize for Public Hearing by: August 15, 2012)
(Potential Public Hearing Date: September 19, 2012)

Discussed after Public Hearing

4. Architectural Design Standards - Amend the Traditional Neighborhood Development Plan, an element of the Comprehensive Plan, to incorporate Architectural Design Standards. **(Time Limit: September 5, 2012) (Deferred at April 18, 2012 to May 2, 2012)**
(Authorize for Public Hearing by: July 11, 2012)
(Potential Public Hearing Date: August 15, 2012)

Discussed after Public Hearing

5. Amendments to the Stafford County Comprehensive Plan (the "Comprehensive Plan") - The County proposes to amend the textual document entitled "Stafford County, Virginia, Comprehensive Plan 2010-2030," to: amend Chapter 4 with regards to Transportation Impact Fees. The proposed amendment would eliminate reference to the current impact fee areas known as the Central West district (Area A) created in 2003 and the South East district (Area E5) established in 2005, reference to the impact fee projects and impact fee rates. The amendment would further reference a new County-Wide district with a new project list and fee rates. **(Time Limit: June 17, 2012) (Deferred at May 2, 2012 to May 16, 2012)**
(Authorize for Public Hearing by: May 16, 2012)
(Potential Public Hearing Date: June 6, 2012)

Discussed after Public Hearing

6. Amendment to the Stafford County Comprehensive Plan (the "Comprehensive Plan") - A proposal to amend the Comprehensive Plan by amending (1) the textual document entitled "Stafford County Comprehensive Plan, 2010 – 2030," dated January 17, 2012 (the "2010 – 2030 Plan"), and (2) the textual document entitled "Courthouse Urban Development Area Plan, Stafford County, Virginia," dated February 10, 2012 (the "Courthouse UDA Plan"), in accordance with Virginia Code Section 15.2-2229. The proposed amendments would: (1) add language to the 2010 – 2030 Plan to summarize the Virginia Code changes, effective July 1, 2012, which would allow previously mandatory Urban Development Areas (UDAs) to be an optional element of a locality's Comprehensive Plan; (2) amend both the 2010 – 2030 Plan and the Courthouse UDA Plan to clarify that previously stated minimum densities for development are now target densities, and (3) amend both the 2010 – 2030 Plan and the Courthouse UDA Plan to recommend that the zoning district standards created for UDAs should incorporate the following density ranges:
    - 3 to 6 dwelling units per acre for single-family detached homes,
    - 5 to 8 dwelling units per acre for townhomes,
    - 11 to 14 dwelling units per acre for condominiums or apartments, and
    - 0.4 to 1.0 floor area ratio for commercial development.

    (Time Limit: June 5, 2012) (History - Deferred at May 2, 2012 to May 16, 2012)

Discussed after Public Hearing

7. Amendment to Zoning Ordinance - Proposed Ordinance O12-13 would amend Stafford County Code, Section 28-35, Table 3.1, "District uses and standards." This amendment to the UD, Urban Development Zoning District regulations establishes maximum densities and modifies the minimum density requirements for development in the UD Zoning District. The following density ranges are proposed: 3 to 6 dwelling units/gross acre for single-family detached and duplex dwellings; 5 to 8 dwelling units/gross acre for townhouse dwellings; 11 to 14 dwelling units/gross acre for multi-family dwellings; and 0.4 to 1.0 floor area ratio for commercial and

for mixed-use development. **(Time Limit: June 5, 2012) (History - (Deferred at May 2, 2012 to May 16, 2012)**

Discussed after Public Hearing

NEW BUSINESS

8. Amendment to Zoning Ordinance; Restricted Access Entrances - Proposed Ordinance O12-21 would amend Stafford County Code, Section 28-105, "Restricted Access Entrances". Currently the Zoning Ordinance requires all residential developments with private streets and thirty-five (35) or more dwellings to have restricted access entrances. Proposed Ordinance O12-21 would make the requirement to have restricted access entrances optional. **(Time Limit: July 31, 2012)**
(Authorize for Public Hearing by: June 6, 2012)
(Potential Public Hearing Date: July 11, 2012)

Discussed after Public Hearing

9. Amendment to Zoning Ordinance; Chesapeake Bay Phase III Compliance – Proposed Ordinance O12-20 would amend Stafford County Code, Chapter 28, Section 62, entitled "Chesapeake Bay Preservation Area Overlay District", to bring the County into compliance with Virginia Code Section 10.1-2109 and Virginia Administrative Code Section 9VAC10-20-191A4i-iii. Proposed Ordinance O12-20 would require notes on final plats regarding Resource Protection Area Standards for buffers and septic tank pump-out. **(Time Limit: July 31, 2012)**
(Authorize for Public Hearing by: June 6, 2012)
(Potential Public Hearing Date: July 11, 2012)

Discussed after Public Hearing

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7:30 P.M.

PUBLIC PRESENTATIONS

Cecelia Kirkman stated she was there to speak about the Transfer of Development Rights Ordinance. She stated she was very concerned about the inclusion of the tax abatement provision. She stated that was something that was optional for the ordinance, it was not required. She stated her concern as a tax payer was there was already a loss of tax revenue with the transfer of development rights because once the development rights go into the receiving area the developer no longer pays proffers for that additional unit. Currently those were valued somewhere between 20,000 and 43,000. She stated there was double dipping because the property owner would get an additional tax abatement somewhere between 21,000 and 43,000 dollars for the fair market value. She stated the tax abatement was tax relief, they would never pay that back. She stated when you multiply that times 491 you were talking about a cost to taxpayers somewhere between 21 and 42 million dollars. She stated the second item she was concerned about was the inclusion of the language about campgrounds and campground facilities. She stated those could be construed as commercial enterprises and in her opinion that was not what was desired when you were trying to preserve property. She stated Department of Conservation and Rec already owned several thousand acres where there was plenty of room to put

public facilities. She stated she would encourage the Commission to strike the reference to campgrounds and facilities.

Paul Waldowski stated he watched an interesting show last night which gave him his topic to speak on tonight. There were seven inventions that had stimulated where we live, work and play. He stated he liked seven because of the spiritual condensation and numerology. He stated the first invention was the train which made us move west. And in this county we had the VRE which helped us go north. The second invention was the elevator, which first showed us how to use vertically and if we take that to Stafford County maybe we would be able to build commuter parking garages that were vertical in nature. He stated the third invention was steel. The example they used was the Sears Tower which would have spanned 16 city blocks in Chicago had it not gone vertical. The fourth invention was the automobile and over half of the people in the 1920's were living in the city, which was the first urban development area. The automobile let us reach out to the suburbs, like Stafford County. He stated we kept getting local governments that kept putting up signs that restrict our access. He stated you were taking the highways and not making them into secondary roads. The sixth invention was air conditioning, which took the air out of these chambers because it is awful hot. Sometimes when I stand here and watch some of the elected officials it even gets hotter. He stated the seventh invention was the airplane and it was interesting that we could go from Washington, D.C. to Washington in less than three hours. He stated he thought he would use the entertainment of seven inventions and see how they applied in the 19th and 20th century and they still applied today.

With no one else coming forward to speak, Mr. Rhodes moved on to item 10.

PUBLIC HEARINGS

10. Amendment to the Subdivision and Zoning Ordinances; Cluster Development - Proposed Ordinance O12-17 would amend and reordain Stafford County Code, Chapter 22, Section 22-4, "Definitions" and Section 22-58, "Content;" Chapter 22, Article IX, "Cluster Subdivisions," Sections 22-266 through 22-270; and Chapter 28, Section 28-25, "Definition of Specific Terms" and Section 29-35, "Table of Uses and Standards," "Table 3.1 District Uses and Standards". This amendment creates cluster provisions in the Subdivision and Zoning Ordinances for single family detached dwellings in conformance with Virginia State Code Section 15.2-2286.1. **(Time Limit: May 28, 2012)**

Susan Blackburn gave a short PowerPoint presentation and explained the history of the proposed ordinance. She stated the Board of Supervisors repealed the Cluster provision on March 7, 2012. The Planning Commission created a subcommittee that drafted new cluster provisions and presented them to the Commission on April 18th. She stated the deadline, as directed by the Board of Supervisors, was the end of May. She stated the major elements that were in the proposed ordinance were the zoning districts, that the provisions included were A-1, Agricultural Districts, A-2, Rural Residential Districts, and the R-1, Suburban Residential Districts. She stated a definition for open space land was also redefined as stated in the Virginia State Code. Changes were made to the approval process to be reviewed and approved administratively and then the subdivision plan would be approved by the Planning Commission as all preliminary subdivision plans were. She explained the requirements for open space for A-1, A-2, and R-1 districts and stated the land could be used for parks and recreation, conservation of land, or other natural resources, historic or scenic sites, wetlands, agriculture, and forestry uses. The modifications for the subdivision approval process were a cluster subdivision would be divided into two parts, the concept plan and the preliminary subdivision plan. She stated staff recommended approval of the proposed ordinance and would be happy to answer any questions.

Mr. Rhodes asked if there were any questions for staff. Hearing none he opened the public hearing.

Debrarae Karnes stated she was an attorney who worked in the Garrisonville District and lived in the Aquia District. She stated this was the first time she could remember a presentation with no questions. So she had three questions of her own and she realized they would not be answered now. She stated they were questions to think about. She stated she represented a client that owned Jumping Branch Farm off of Route 17 in Hartwood. She stated it was a beautiful area of open space that was not in the Urban Service District but it was near public water and sewer. Her three questions were: the ordinance provided for a small amount of increased density for cluster developments in A-1 served by water and sewer. She asked what that meant. She stated she thought it referred to land in the Urban Services Area which by definition was not supposed to include A-1 and A-2. She stated her client supported the concept of cluster subdivisions in A-1 and A-2. They had magnificent environmental benefits and magnificent planning benefits. She stated her second question was if anyone did a study to see how many more houses would be permitted if you gave increased density to A-1 and A-2 and permitted land to be served by utilities when they were adjacent or nearby even though it was not in the Urban Area. She stated in her opinion there were not many. She stated what she was hearing was there would be opposition to allowing rural area homes to be served by adjacent public water and sewer and her question was if it was only a few houses, doesn't the environmental protection outweigh just a few extra houses that were designed sensitively. She asked the Commission to think about it.

Paul Waldowski stated the first thing he would discuss was open space land and asked who would take care of the open space land. He asked if an HOA was going to take care of it and who was the subdivision agent. He stated anytime you build a subdivision you pass it over to the HOA and they have to take care of all the entities, like the park across the street, the stormwater down the cul-de-sac. He stated in this country we have 3.2 billion acres of land but yet we keep going after the agricultural aspects and most planners don't think about all the water that was naturally on agricultural land and in some cases to the west it was really irrigated. He stated he was not as prepared as he usually was on this topic, but in his opinion any citizen that was listening to the meeting better realize that if you buy a piece of property in one of these cluster concept plans, to beware because you may be creating more open space but it may be more costly to maintain it.

Cecelia Kirkman stated she recognized the Commission was caught between a rock and a hard place, because you do have to enact something. She encouraged the Commission to consider holding on to this a little longer or amending it. She pointed out that although there was a deadline from the Board, but because they did not send an ordinance there were no real consequences if this was not acted on tonight. She asked the Commission to table it and ask the Board for more time. She stated she was concerned about the way the ordinance was structured; the densities could be greater under by-right densities. She stated she thought the best way to ensure that would not happen and meet the technical requirements of the State statute was to require all owners of property to go through the same subdivision process and have all owners submit a preliminary subdivision plan, which would be reviewed by the Planning Commission. She stated in her opinion that would establish the number of units that could be built on a property. If a developer wished to move to a cluster concept they could do so when they submitted the plat and the construction plan and those were reviewed administratively, which would meet the requirements. That way you could ensure that you do not end up with more units. She stated she also wanted to commend the Commission and encourage them to keep the provision that said that you have to get a compliance review if you want to extend water and sewer to a cluster subdivision outside of the urban service area. She stated she would also like to encourage the Commission to make the requirement in A-1 for the minimum lot acreage of 1 ½ acres rather than an average density of 1 ½ acre. She stated the reason for that was water and sewer was

now being extended out to the Roses, which was built with onsite septic on one acre lots and over time those lots had not been adequate to support onsite sewage disposal systems.

With no one else coming forward to speak Mr. Rhodes closed the public hearing. He stated there was also email communication that was handed out by staff concerning the proposed cluster ordinance modification which was consistent with one of the speakers.

Mr. Apicella stated he also asked some questions related to that suggestion and asked the Commission to look at those.

Mr. Rhodes asked Mr. Harvey to recap his response to the concerns regarding the extension of water and sewer. Mr. Harvey stated the question was would this be granting entitlements to these types of developments that were not seen with other types of developments. He stated generally the Zoning Ordinance as it existed was silent to the provision of water and sewer to developments. He stated they had to identify if they were being served by water and sewer but it did not have a density specifically based on proximity to water and sewer. That was a function of engineering as to they can get water and sewer and fit the lots based on the minimum lot size criteria. He stated there was also a question about consistency with the Comprehensive Plan which set out guidelines that you had to go through a conformity review before any water and sewer was extended beyond the limits of the Urban Service Area. He stated there were also standards in the Comprehensive Plan which stipulated where those situations may or may not be appropriate. He stated one issue tonight was the public hearing. Because the public hearing was advertised without the change and from a staff perspective the change was significant enough that it could not be considered tonight. He stated if the Commission was inclined it could be a separate amendment.

Mr. Apicella stated he also asked Mr. Harvey to compare what was being proposed for cluster subdivisions to what was currently being done for conventional subdivisions. Mr. Harvey stated the A-1 option with well and septic you would have to deduct 50 percent of your land for open space and the remainder could be developed with an average lot size of 1 ½ acres. He stated in theory that was the same number of lots you could potentially yield under a by-right scenario, not knowing all the soils characteristics and layout. He stated under the water and sewer alternative as currently written there was a potential for an increased number of dwelling units because the minimum lot size stipulated was 1 acre but no average lot size. In the A-2 there was no density increase. Clusters would only be applicable with projects with public water and sewer with a minimum lot size of ½ acre.

Mr. Gibbons asked if the open space requirement had enough land for an alternate drainfield. Mr. Harvey stated it would depend on the soils types and the drainfield configuration in relation to property boundaries and house location.

Mrs. Hazard asked if there was any concern by Utilities or Health concerning 1 acre in A-1, that there might be an issue. Mr. Harvey stated staff had not had a specific discussion with the Health Department in relation to this ordinance. He stated recently subdivisions had been approved with 1 acre lots with wells and septic systems.

Mr. Apicella made a motion to recommend approval of proposed Ordinance O12-07 as written. Mrs. Hazard seconded. Mr. Gibbons asked that the comments made during the public hearing be forwarded to the Board. Mr. Apicella stated a good amount of time was spent on this in a subcommittee coming up with a balanced approach, to incorporate the things that were not in the previous ordinance and to eliminate the things that were in the ordinance that should not have been there. He stated he thought it captured all the good changes that were made and was a good balanced approach and strongly

recommended approval. Mrs. Hazard stated the subcommittee listened to the people that were there. They balanced and considered many different approaches, and believed it was a good approach and could be perfected as issues were found moving forward. Mr. Rhodes stated he would like to thank the subcommittee and staff that worked hard on this ordinance. It was a good product and he would be supportive. With no further comments Mr. Rhodes called for the vote. The motion passed 7-0 to go to the Board and make sure to forward the other information received.

1. *Amendment to Zoning Ordinance - Proposed Ordinance O12-02 would amend the Stafford County Code by, among other things, creating new definitions, modifying permitted uses and creating new zoning regulations to establish a Transfer of Development Rights (TDR) program. The purpose of the TDR program is to provide a mechanism by which a property owner can voluntarily transfer residential density from sending areas to receiving areas and/or to a transferee without relation to any particular property through a process intended to permanently conserve agricultural and forestry uses of lands, reduce development densities on those and other lands, and preserve rural open spaces and natural and scenic resources. The TDR program is intended to complement and supplement County land use regulations, resource protection efforts, and open space acquisition programs. The TDR program is also intended to encourage increased densities in two designated receiving areas that can better accommodate this growth.* ***(Time Limit: June 2012)***

2. *Amendment to the Stafford County Comprehensive Plan ("Plan") - A proposal to amend the Plan dated June 7, 2011 in accordance with Virginia Code Section 15.2-2229 regarding Transfer of Development Rights (TDR). The proposed amendment would modify Chapter 3 of the Plan to incorporate amendments to the textual document and adopt a new map entitled Figure 3.8, Transfer of Development Rights Sending and Receiving Areas. The map generally depicts the area south of Aquia Creek, east of the CSX Rail Line and north of Potomac Creek that are designated as Agricultural/Rural and Park on the Plan Land Use Map as a sending area for Transfer of Development Rights and the lands designated as the Brooke Station Urban Development Area and Courthouse Urban Development Area as receiving areas for Transfer of Development Rights.* ***(Time Limit: June 2012)***

Mr. Rhodes stated back to items 1 and 2, there was a motion with a second to recommend these forward to public hearing and now there was some subsequent discussion on that motion. Mr. Hirons stated he just wanted to ask an additional question. He stated he wanted to get back to the sunset idea and asked Mr. Taves if he could describe his recommendation was if the Commission wanted to do sunset by way of a date. Mr. Taves stated by adopting a second Ordinance, since there was no limitation on when you could state the effective date for the second Ordinance, you could give the TDR Ordinance a certain life, a life of X number of years to a particular date. Mr. Rhodes asked if the Commission should highlight the opportunity to establish in a separate Ordinance at which no further applications would be accepted to sever development rights. Mr. Hirons stated the Board asked for the opinion of the Commission and they sent it back because we did not really hear you clearly enough. He stated he did not know what the ultimate will of the Commission was, but he thought there was some support to have some sort of sunsetting provision. He asked if it would be preferred to have both the TDR and the Sunset Ordinance at the same time. Mr. Taves stated it would be cleaner to get the TDR Ordinance adopted and then come back at a later time with the second Ordinance. Mrs. Hazard stated she had a concern that if it was going to be advertised the people that were going to come would be people that may be interested in using the program. She stated she would like them to know the Commission was thinking of sunsetting. She suggested keeping them together to allow the Commission to hear the comments in totality. Mr. Rhodes stated in his opinion there was some merit to consideration of it, but the Commission was up at a time where the public hearing needed to be

authorized. He stated even though the language may be very simple it had not been started and it was something that could have be done subsequent. Mr. Apicella asked if the Commission was authorized to recommend an Ordinance that was not directed by the Board of Supervisors. He suggested the Commission draft a sunset provision, go through the correct process, and hold a public hearing and send it to the Board. Mr. Hirons stated Mr. Apicella was asking could the Commission independently initiate a draft Ordinance that was a sunset to the TDR Ordinance. He asked what it would take for the Commission to add it to the agenda and recommended it be added to the next agenda as new business with a draft Ordinance from staff. Mr. Harvey stated if staff was directed to they would put together an Ordinance. He stated his recollection was the Board gave the Commission wide latitude to develop the TDR program, so the liberal interpretation could be to determine how long it would last. Mr. Gibbons stated the Planning Commission could always make recommendations for Comp Plan changes and Zoning Ordinance changes and they could forward it. But he did not know what the Board sent down. Mr. Taves stated that under the State Code the Commission could, on its own initiative, draft amendments and propose those to the Board. Mr. Rhodes stated he would like to clarify one procedural thing; if the Commission authorized this to public hearing, if language was in there you could take it out after public hearing but you could not add it in if it was a significant change or more restrictive. He asked if the section on tax abatement was in there now and was removed after public hearing, was that acceptable. Conversely if it was not in there, it was not advertised and it was decided after the public hearing to add it, could that be done? Mr. Taves stated as an example, if the Commission conducted a public hearing that included the proposal of the tax abatement program, it could be taken out. But if the Commission did not conduct a public hearing on it, it could not be added because it was not in the scope of the advertisement. Mr. Rhodes stated if the public never saw the language it could not be added after the public hearing.

Mrs. Hazard suggested changing the title to Transfer of Development Rights Pilot Program which sent a signal to the Board that the Commission believed it was a pilot program. She stated she did not know if that was more restrictive because the sunset provision was not included. Mr. Rhodes stated Mrs. Hazard would like to ask if the motion maker would accept an amendment to the motion to add the Pilot Program after Transfer of Development Rights for Article 22 titling on page 16 of the attachment. Mr. Apicella stated absolutely. Mr. Rhodes asked if the seconder agreed. Mrs. Hazard stated yes. Ms. McClendon stated according to her notes Mr. Gibbons seconded the motion. Mr. Gibbons stated yes. Mr. Rhodes stated that additional edit was in the motion.

Dr. Schwartz asked what would happen if the pilot program was great and the County wanted to make it countywide but it was titled as a pilot program. Mr. Rhodes stated this had a limitation of 491 units and had a defined sending and receiving area. Therefore new legislation would be needed to expand it.

Mr. Taves stated giving it the name pilot program would not change any of the substantive elements or requirements, so it would not make any difference. Mr. Hirons asked Mr. Taves to read the language concerning the parks again. He stated Ms. Kirkman brought up a concern and he agreed that we wanted to make sure that it was limiting commercial appeal. Mr. Rhodes asked if the modified legislation that allowed parks to be added included the definition in the legislation. Mr. Taves stated the language was pulled from the legislation. Mr. Rhodes asked if you could just use park. Mr. Taves stated as he recalled that portion of the statue was a "may". So you don't have to allow any or all, you could take your pick. And with regard to the language, Mr. Harvey was multi-tasking and working on getting that typed up and asked the Commission to give staff a few more minutes to allow him to read the language.

Mr. Rhodes stated that would be fine and asked Ms. McClendon if it was okay to move on to item 3. Ms. McClendon stated that was allowed. Mr. Rhodes stated items 1 and 2 would be set aside to make sure the Commission knew the language they were dealing with and moved on to item 3.

3. *Proffer Guidelines - Review and discuss new methodology and policies. (**Time Limit: September 30, 2012)***

Mr. Harvey stated that item was discussed at the pervious Commission meeting and there was a desire to establish a committee and also ask the Board for a committee. Mr. Rhodes asked Mr. Harvey if he received any feedback from the Board expressing interest in a joint committee. Mr. Harvey stated no. Mr. Rhodes stated he had not received any either and stated the Commission should assume they are proceeding on the proffer guidelines issue independently of the Board. Mr. Rhodes asked if there were any members interested for a subcommittee to help work on the proffer guidelines. Mr. Hirons, Mrs. Hazard, and Dr. Schwartz volunteered to participate. Mr. Rhodes proceeded to item number 4.

4. *Architectural Design Standards - Amend the Traditional Neighborhood Development Plan, an element of the Comprehensive Plan, to incorporate Architectural Design Standards. **(Time Limit: September 5, 2012)***

Mr. Harvey stated staff members had been discussing this item and intended that at the next meeting to give the Commission an outline on how to proceed with the survey, as well as give a timeline to the Commission detailing when they intended to go to public meetings and how to get forwarded to public hearing and the length of time the survey would be open. Mr. Rhodes proceeded to item number 5.

5. *Amendments to the Stafford County Comprehensive Plan (the "Comprehensive Plan") - The County proposes to amend the textual document entitled "Stafford County, Virginia, Comprehensive Plan 2010-2030," to: amend Chapter 4 with regards to Transportation Impact Fees. The proposed amendment would eliminate reference to the current impact fee areas known as the Central West district (Area A) created in 2003 and the South East district (Area E5) established in 2005, reference to the impact fee projects and impact fee rates. The amendment would further reference a new County-Wide district with a new project list and fee rates. **(Time Limit: June 17, 2012)***

Michael Smith, Director of Public Works, stated he would be happy to answer any question the Commission may have. Mr. Rhodes asked if there were any questions on the Transportation Impact Fee. Mr. Gibbons stated at the last meeting Mr. Apicella stated the Commission had to look at the impact fee and the proffer guidelines which had the component in there also. He asked why the Commission was not given the time to do those simultaneously and asked if there was a deadline. Mr. Rhodes stated there was a deadline to go to public hearing on May 16th. He stated what had been referred to the Commission was the portion of where the Transportation Impact Fee applied, two distinct areas or countywide. There was no indication in the referral that the Commission was being asked to participate in the specific dialogue on the calculation of the Transportation Impact Fee that was the purview of the Board. Mr. Rhodes stated we were addressing the Comp Plan and the map portion. He stated what that did leave was the one portion on the map, which indicated a value associated with Transportation Impact Fees on the map that was referred to the Commission. Mr. Gibbons asked if the Commission could take it off. Mr. Rhodes stated the option to the Commission was the map that was referred had to be used. The Commission could choose to additionally hold a public hearing that did not list that, but he was not sure there was a lot of merit in that effort. Mr. Gibbons stated when something was advertised for public hearing and you had something on a map, that was what was advertised and suggested removing it off the map. Mr. Apicella stated the package

that staff provided recommended taking that figure off the map. Mr. Rhodes asked Ms. McClendon if the Commission had the authority to do that. Ms. McClendon stated the Commission had the authority; what staff was recommending was to advertise the description of the countywide service area. Right now as the ad stands it was not actually a picture of the map, it was a description of the countywide area and a list of the improvement plans. She stated after that it would come back to the Commission and if the Commission would like to recommend to the Board to remove the fee part of the map, that may be the clearest way to run the public hearing. Mr. Rhodes confirmed the advertisement would not be showing the map. Ms. McClendon stated currently the advertisement did not show the map. Mr. Apicella asked if there were any property owners or circumstances where the fee would not apply. Mr. Smith stated that all new development would apply. Mr. Apicella confirmed that those that have their property platted were not going to be impacted by this fee. Mr. Smith stated that was correct. Mr. Apicella asked how many lots were out there that were not developed countywide. Mr. Smith stated there were approximately 2,000 that were platted that were not developed, that this would not apply. Mr. Apicella reiterated the people that already had a house built were not impacted, those 2,000 that had their property platted were not impacted, but everybody else would pay. Mr. Smith stated all new development that would impact the roads would pay. Mr. Apicella stated he was making sure this was fair, just because people were new they were not paying the overwhelming costs associated with the roads. Mr. Smith stated all the costs were calculated for new development impact on the roads. If you had a problem on a road currently Transportation Impact Fees could not be used to pay for it. Mr. Apicella stated the people that were new were going to be paying twice. They were going to be paying as a new resident and as a countywide resident because the fee was going to be shared by those who were already here. It was cost shared even though there were roads in the center of the county, 100 percent of the costs associated with that road improvement were not going to be paid by the new residents. It had been cost shared so the people who were already here would be paying a portion through their taxes. Mr. Smith stated the share that was not related to growth would go to people that were already here. So the cost of only the portion of the road improvement would be paid by the new residents, the portion that needed to be improved by the new growth. So if a road project was 50 percent growth, 50 percent of that would be from impact fees and 50 percent would be from other fees. Mr. Apicella stated he still had concerns of fairness.

Mr. Hirons made a motion to authorize the Transportation Impact Fees Amendment to the Comprehensive Plan for public hearing. Mrs. Hazard seconded the motion. The motion passed 7-0.

Mr. Rhodes proceeded back to items 1 and 2.

1. *<u>Amendment to Zoning Ordinance</u> - Proposed Ordinance O12-02 would amend the Stafford County Code by, among other things, creating new definitions, modifying permitted uses and creating new zoning regulations to establish a Transfer of Development Rights (TDR) program. The purpose of the TDR program is to provide a mechanism by which a property owner can voluntarily transfer residential density from sending areas to receiving areas and/or to a transferee without relation to any particular property through a process intended to permanently conserve agricultural and forestry uses of lands, reduce development densities on those and other lands, and preserve rural open spaces and natural and scenic resources. The TDR program is intended to complement and supplement County land use regulations, resource protection efforts, and open space acquisition programs. The TDR program is also intended to encourage increased densities in two designated receiving areas that can better accommodate this growth.* ***(Time Limit: June 2012)***

2. *<u>Amendment to the Stafford County Comprehensive Plan ("Plan")</u> - A proposal to amend the Plan dated June 7, 2011 in accordance with Virginia Code Section 15.2-2229 regarding*

Transfer of Development Rights (TDR). The proposed amendment would modify Chapter 3 of the Plan to incorporate amendments to the textual document and adopt a new map entitled Figure 3.8, Transfer of Development Rights Sending and Receiving Areas. The map generally depicts the area south of Aquia Creek, east of the CSX Rail Line and north of Potomac Creek that are designated as Agricultural/Rural and Park on the Plan Land Use Map as a sending area for Transfer of Development Rights and the lands designated as the Brooke Station Urban Development Area and Courthouse Urban Development Area as receiving areas for Transfer of Development Rights. ***(Time Limit: June 2012)***

Mr. Taves stated Mr. Harvey wanted to add something to the discussion concerning to what extent the Commission could on its own initiative bring up an Ordinance. Apparently there was a provision in the County Code that related to that and Mr. Harvey could explain. Mr. Harvey stated Section 28-334 of the Zoning Ordinance stipulated that for text amendments to the Zoning Ordinance, the Board of Supervisors must refer it to the Planning Commission. He stated the Commission could generate the Ordinance and ask the Board to refer it to you. Dr. Schwartz stated he agreed with Mrs. Hazard, if you were going to put it out for public hearing you wanted the people to know this was a sunset program also. Mr. Rhodes stated that was a fair point but the Commission had not had any discussion on what that language might be or how many years. He stated he did not know how something could be put together to go forward to public hearing immediately. He stated he was not sure if sunset should be 3 years, 5 years, or 7 years, and the Commission had not discussed it thoroughly. Dr. Schwartz stated the Commission could alter things after the public hearing. Mr. Rhodes agreed but what was being talked about was a separate Ordinance for public hearing. Discussion ensued between the Commissioners concerning the sunset provision. Mrs. Hazard stated since this was being sent to public hearing, was there any way the Commission could add a sentence in the purpose portion that this was being considered as a pilot program. She asked how the mention of a sunset clause be put in without picking a date, but the Commission could receive comments. Mr. Taves suggested the Commission could make it part of the public debate, include a provision for a sunset date in the proposed Ordinance and not recommend adoption of it in the Ordinance, but rather in a separate Ordinance. He stated that would put it on the table, it would enable people to consider it and the Commission could talk about it and it would be a moot point if it was not adopted. Mrs. Hazard stated that would get it out there and she was willing to consider that. Mr. Harvey asked for clarification; was the Commission considering putting wording in the preamble of the Ordinance. Mr. Rhodes stated he was not sure if the Commission was talking about that or Section 28-365. Mr. Harvey stated in the preamble of the Ordinance it stated the Ordinance was "hereby enacted, adopted and ordained as follows". He stated often times there may be another further be it ordained that there would be an effective date of the Ordinance, which was not listed. He stated the way the Ordinance was written it would become effective at the time of adoption. He stated he was not sure if that would be the appropriate area where the Commission could put in "this Ordinance shall expire on a certain date" and leave it blank. He stated he was not sure if that was the intention of the discussion. Mr. Taves suggested adding the language at the end of Section 28-365. Mr. Rhodes asked Mr. Taves if he would still advise against having that be dealt with as a separate Ordinance. Mr. Taves stated the Commission would still have to conduct another public hearing if the Board referred it back. Mr. Rhodes asked to refer back to the language in sub-paragraph D, for page 22. Mr. Harvey stated this was the wording that was worked out. Mr. Taves asked the Commission to focus on the 6,000 square foot limitation and the 2,000 square foot limitation that was added. He stated the Commission may want to consider if they want to include the square footage of existing buildings, because there may be a property that had development rights transferred and there may be existing buildings already on the property. He stated if an agricultural property already had 6,000 square feet of buildings you may not want to allow them to build 6,000 square feet more. Mr. Taves stated the same may be true for the 2,000 square feet for the parks and campgrounds uses. Mr. Rhodes asked what would happen if there

was an existing 7,000 square foot barn already on the property. Mr. Taves stated if that was done, you would grandfather anything that existed and just say that you can't build any more to have a cumulative size of over 6,000. Dr. Schwartz asked what would happen if they wanted to replace the old structure. Mr. Taves stated he would think that would be allowed as long as the old structure was removed. Mr. Apicella stated he was not clear on the specific language that would be suggested. Mr. Taves stated it would depend on the Commission and if they wanted to go that route. It would depend on the limitations the Commission would want to place on that property owner's right. Discussion ensued between the Commission members concerning the limitation of building square footage and it was decided to leave the language as it was originally written.

Mr. Rhodes moved the discussion back to Section 28-365. Mrs. Hazard stated based on Mr. Taves' suggestion the Commission could create a paragraph at the end of Section 28-365, with a header Transfer of Development Rights Pilot Program Sunset Date and the Transfer of Development Rights shall be repealed from five years from date of adoption. Mr. Apicella stated he would accept that as a friendly amendment. Mr. Taves suggested the Commission not have language saying that this shall be repealed because that suggested an additional action would be necessary. He stated the Commission may want to consider shall expire. Mr. Apicella stated that worked for him as well. Mr. Gibbons stated he was okay with that change. Mr. Taves stated in his opinion it was important to protect vested rights and suggested the following language in Section 28-365, Pilot Program Sunset Date, "the provisions of this ordinance shall expire five years after the adoption of this Ordinance, provided however, that any severed development rights shall have the right to be attached to a receiving property in perpetuity". Mr. Rhodes asked for comments. Mr. Taves stated what would happen, if this were to occur, a severed development right was owned by a property owner but not yet attached to a receiving property, that property owner would be able to attach it at any later date. The Ordinance would live on for those purposes. Mr. Gibbons stated if the Ordinance was repealed there would be no receiving property. Mr. Taves stated for that property owner the Ordinance would live on. Mr. Taves stated he was not recommending this language be adopted, it was just for discussion. Mr. Rhodes stated he thought the general consensus was the Commission was agreeing to this only for the purpose of the public hearing to generate and stimulate comments on this type of a provision. He stated he would not be inclined to include this language in what was recommended forward to the Board, but to gather input for a separate Ordinance concerning the sunset provision. Mr. Apicella stated the purpose was to get feedback from the public and suggested staff would have a second opportunity when trying to craft the second Ordinance concerning the sunset provision. Mr. Taves suggested adding a couple more words, after development rights "development rights not yet retired or extinguished shall have the right…" He stated that would make it clear that if you had already extinguished or retired a development right, you did not get two bites at the apple. Mr. Rhodes agreed and asked the motioner and the seconder if they were comfortable with the amendment to the motion. Both Mr. Apicella and Mr. Gibbons stated they were comfortable. Mr. Rhodes asked if there were any other discussion. He reviewed the changes and stated there was one modification on the Comp Plan language on page 1 of 4 on attachment 1, the modification to sub-paragraph D and the added Section 28-365 and called for the vote. The motion passed 7-0. Mr. Rhodes thanked everyone for their hard work on this item and proceeded to items 6 and 7.

6. *<u>Amendment to the Stafford County Comprehensive Plan (the "Comprehensive Plan")</u> - A proposal to amend the Comprehensive Plan by amending (1) the textual document entitled "Stafford County Comprehensive Plan, 2010 – 2030," dated January 17, 2012 (the "2010 – 2030 Plan"), and (2) the textual document entitled "Courthouse Urban Development Area Plan, Stafford County, Virginia," dated February 10, 2012 (the "Courthouse UDA Plan"), in accordance with Virginia Code Section 15.2-2229. The proposed amendments would: (1) add language to the 2010 – 2030 Plan to summarize the Virginia Code changes, effective July 1, 2012, which would allow previously mandatory Urban Development Areas (UDAs) to be an optional element of a locality's Comprehensive Plan; (2) amend both the 2010 – 2030 Plan and*

the Courthouse UDA Plan to clarify that previously stated minimum densities for development are now target densities, and (3) amend both the 2010 – 2030 Plan and the Courthouse UDA Plan to recommend that the zoning district standards created for UDAs should incorporate the following density ranges:

- *3 to 6 dwelling units per acre for single-family detached homes,*
- *5 to 8 dwelling units per acre for townhomes,*
- *11 to 14 dwelling units per acre for condominiums or apartments, and*
- *0.4 to 1.0 floor area ratio for commercial development.*

(Time Limit: June 5, 2012)

Mr. Harvey stated the Commission deferred this item at the last meeting due to thoughts that there may be some dialogue with the Board on UDAs. He stated the Board asked staff to come back with a referral resolution to the Planning Commission to consider studying UDAs in more detail. Mr. Harvey stated the Commission was up against a time deadline for action. Mr. Rhodes stated in his opinion the Board was wondering what would be the best thing to do now that things have changed and it had become optional. He stated in his opinion it was a good suggestion to send it back to the Commission and to develop the range. He asked what the will of the Commission was. Mr. Gibbons asked what the action of the Board was. Mr. Rhodes stated the Board referred it to the Commission asking us to develop a range, because we had a singular number associated with the different types of development. Staff developed some good ranges, which were listed on the hand-out and now it was up to the Commission to make a recommendation back to the Board. Mr. Rhodes stated he thought it was fine to recommend this forward to the Board and then they would give the Commission additional homework to do concerning the future and nature of what the County should do dealing with UDAs at large. Mr. Apicella made a motion to send this forward to the Board. Mr. Gibbons seconded the motion. With no further discussion Mr. Rhodes called for the vote. The motion passed 7-0.

7. *<u>Amendment to Zoning Ordinance</u> - Proposed Ordinance O12-13 would amend Stafford County Code, Section 28-35, Table 3.1, "District uses and standards." This amendment to the UD, Urban Development Zoning District regulations establishes maximum densities and modifies the minimum density requirements for development in the UD Zoning District. The following density ranges are proposed: 3 to 6 dwelling units/gross acre for single-family detached and duplex dwellings; 5 to 8 dwelling units/gross acre for townhouse dwellings; 11 to 14 dwelling units/gross acre for multi-family dwellings; and 0.4 to 1.0 floor area ratio for commercial and for mixed-use development.* ***(Time Limit: June 5, 2012)***

Mr. Apicella made a motion recommending approval of proposed Ordinance O12-13. Mr. Gibbons seconded the motion. Mr. Rhodes asked if this was an item to provide to the Board of Supervisors some draft language associated with the homework assignment. Mr. Zuraf stated these were specific changes to the Comp Plan. The public hearing was held at the last meeting on May 2. He stated item 6 was the specific changes to the Comp Plan and item 7 was specific Ordinance changes. He stated this would recommend these items for public hearing to the Board. Mr. Rhodes called for the vote. The motion passed 7-0. Mr. Rhodes moved on to item 8.

<u>NEW BUSINESS</u>

8. *<u>Amendment to Zoning Ordinance; Restricted Access Entrances</u> - Proposed Ordinance O12-21 would amend Stafford County Code, Section 28-105, "Restricted Access Entrances". Currently the Zoning Ordinance requires all residential developments with private streets and thirty-five (35) or more dwellings to have restricted access entrances. Proposed Ordinance*

O12-21 would make the requirement to have restricted access entrances optional. ***(Time Limit: July 31, 2012)***

Andrea Hornung gave a brief presentation of the staff report. She stated that the County's Zoning Ordinance required that all residential developments with private streets and 35 or more dwelling units have restricted access entrances, and restricted access entrances must have gatehouses, gate arms, or video surveillance cameras at the entrances to the neighborhood or apartment complex. She stated that proposed Ordinance O12-21 would make the restricted access requirement an option rather than mandatory, and the time limit would authorize a public hearing by June 6th in order to meet the Board's deadline of July 31st, which would make the public hearing June 20th. Mrs. Hazard asked if they had input from Fire and Rescue. Mrs. Hornung stated that in April 2012, they received an email from Charlie Jett stating that the gated communities provided code access to only one gate when they had multiple gates. Dr. Schwartz asked how many subdivisions in the County had private gates. Mr. Harvey stated that they would have to verify, but approximately 10 or more had gates.

Mr. Hirons moved that the Planning Commission forward proposed Ordinance O12-21 to public hearing. Dr. Schwartz seconded the motion. The motion passed 7-0.

9. *Amendment to Zoning Ordinance; Chesapeake Bay Phase III Compliance - Proposed Ordinance O12-20 would amend Stafford County Code, Chapter 28, Section 62, entitled "Chesapeake Bay Preservation Area Overlay District", to bring the County into compliance with Virginia Code Section 10.1-2109 and Virginia Administrative Code Section 9VAC10-20-191A4i-iii. Proposed Ordinance O12-20 would require notes on final plats regarding Resource Protection Area Standards for buffers and septic tank pump-out.* ***(Time Limit: July 31, 2012)***

Andrea Hornung gave a brief presentation of the staff report. She stated that on May 1, 2012, the Board of Supervisors approved Resolution R12-118 which referred proposed amendments to the Zoning Ordinance, Section 28-62, entitled "Chesapeake Bay Preservation Area Overlay District." She stated that on March 19, 2012, the Chesapeake Bay Local Assistance Board completed their compliance evaluation of the County's Chesapeake Bay Preservation Act program for consistency with Chesapeake Bay Preservation Act and Regulations by the state, and they recommended one of the two items for the County to amend in their Ordinance to be fully compliant with the regulations. And the compliance was with the Virginia Code 9VAC10-20-919 A4 i-iii, that specifically noted that the County must require a notation on plats submitted as part of a plan of development application of the requirement to retain an undisturbed and vegetated 100-foot wide buffer area; the requirement for pump-out and 100 percent reserve drainfield sites for on-site sewage treatment systems; and that permitted development in the RPA was limited to water dependent facilities or redevelopment, including the 100-foot vegetated buffer. She stated that the two requirements would be to have notes on the plats of subdivisions to require septic tank pump out every five years and also to prohibit disturbance in the RPA buffer. She stated that staff recommended the amendments to the Zoning Ordinance pursuant to proposed ordinance O12-20, to require notes on the plats.

Mrs. Hazard made a motion to authorize proposed Ordinance O12-20 for public hearing. Mr. Hirons seconded the motion. The motion passed 7-0.

PLANNING DIRECTOR'S REPORT

Mr. Harvey stated that the Board of Supervisors took up the request from the Planning Commission for guidance on Urban Development Areas. He stated that there was some general discussion and the Board asked for staff to come back with a referral resolution at their next meeting. He stated that some

of the discussion points were are Urban Development Areas appropriate and should they be removed, renamed, and whether or not the density should be reduced by 50 percent. He stated that staff was working towards some of the initiatives that were mentioned at the Planning Commission Retreat and had made progress. He stated that they added the Planning Commission to the Development Review Committee meeting email memorandum, for information pertaining to new rezonings and conditional use permits that were filled. He stated that they were working on the iPad issue. The Commission recommended using the Wi-Fi connection.

COUNTY ATTORNEY'S REPORT

No report

COMMITTEE REPORTS

No report

CHAIRMAN'S REPORT

No Report

OTHER BUSINESS

11. TRC Information – May 23, 2012

Mr. Harvey stated that there was one item for the Falmouth District, which was the Chichester Park.

Mrs. Hornung stated that it would be on May 23rd at 9 a.m.

APPROVAL OF MINUTES

March 21, 2012

Mrs. Hazard made a motion to approve the minutes. Dr. Schwartz seconded. The motion passed 7-0.

Mr. Harvey stated he had two items he forgot to mention in the Planning Directors Report. He stated the Commission had requested a copy of the approved CIP, and it had been included in the packages. He also stated the Commission, at their retreat, had requested additional information for items that may be coming before the Commission. He advised the Commission that in the hand-out that was placed at the dais, there was some information that the department used internally to track projects. He stated it was updated after each Board of Supervisors and Planning Commission meeting, and staff would forward that information on to the Commission.

ADJOURNMENT

With no further business to discuss, the meeting was adjourned at 9:27 p.m.

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Michael Rhodes, Chairman
Planning Commission